

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Child and Family Services Agency**



Administrative Issuance: CFSA-05-7

TO: All CFSA Staff  
Contract Agency Staff

FROM: Uma Ahluwalia, Principal Deputy Director

DATE: October 26, 2005

RE: **Fair Hearings Requirements for Appeals of Service Decisions**

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Federal law provides for a fair hearing for clients from certain service decisions made by CFSA or its contract agencies. Services are defined as support or assistance provided to clients when there has been a substantiation of abuse or neglect and the client has an active case with CFSA. This Administrative Issuance explains the process for fair hearings for appeals to be followed by Child and Family Services Agency (CFSA) and contract agency staff.

In order to implement the notification to clients of their right to appeal, an addendum to the case plan and Individual Transitional Independent Living Plan has been created, called the Case Planning Acknowledgements form. Social workers must explain the right to a Fair Hearing to clients of the Agency and have them sign the Case Planning Acknowledgement form for inclusion in the case record. The Service Appeal Process brochure has been developed to describe the right to appeal service decisions. The Fair Hearing Request Form has also been attached to this issuance and must be given and explained to clients during the case planning meeting.

Contract agency staff with questions regarding this administrative issuance may contact the Deputy Director of the Office of Licensing and Monitoring.

CFSA staff with questions concerning this issuance can contact the Principal Deputy Director.

Contact the Office of the General Counsel with any legal questions.

### **Who can appeal**

The following individuals may appeal from a service decision:

1. The parent or legal guardian of a child for whom child abuse or neglect was supported; and
2. A youth (age 14 and over) who is committed to CFSA.

In this administrative issuance, these individuals are referred to as "clients".

## **What can be appealed in a fair hearing regarding services**

A client may appeal:

- The denial, reduction or termination of a service;
- The failure to take into account the client's choice of service;
- The determination that the client must participate in a particular service program;
- The manner in which the client is served by a service program in which the client is participating.

## **Examples of service issues that might result in a request for a fair hearing**

- CFSA's decision not to offer services;
- CFSA does not provide services agreed to in case plan; and
- A request for a specific service is denied or not acted upon.

## **What cannot be appealed in a fair hearing regarding services**

The following may not be appealed in a service fair hearing:

1. A client may not appeal any service action taken by CFSA or a contract agency that has been ordered by a court. For example, if the court determines that a parent will not receive reunification services, CFSA's failure to provide reunification services cannot be appealed in a fair hearing.
2. If CFSA investigates a report of suspected child abuse or neglect, and determines that the report is unsupported, that decision cannot be appealed. The subsequent failure by CFSA to offer services cannot be appealed.

## **Steps to be taken concerning a service appeal**

CFSA and contract agency staff are required to do the following in order to notify clients of their right to appeal:

1. Review the appeal rights with the parent or legal guardian during the case planning meeting and obtain the client's signature on the Case Planning Acknowledgements page attached to the case plan. Give the parent/guardian the Service Appeals brochure and the Fair Hearing Request form.
2. Review the appeal rights with the youth during the child case plan meeting or Individual Transitional Independent Living Plan (ITILP) meeting and obtain the youth's signature on the Case Planning Acknowledgements page attached to the ITILP. Give the youth the Service Appeals brochure and the Fair Hearing Request Form.

3. If the client wishes to appeal, the client must file the Request for Fair Hearing with the CFSA Office of Fair Hearings within thirty (30) days from the date of the case plan/ITILP.
4. If the client files a request for a fair hearing within 30 days, a fair hearing will be held within forty-five days of the date of the request.

### **The Informal Program Administrator's Review**

1. Once the Fair Hearings office receives a request for a Fair hearing, the Fair Hearings Office shall notify the CFSA Program Administrator who shall schedule an informal Program Administrator's Review with the individual to attempt to resolve their concerns informally.
2. The CFSA Program Administrator shall hold the informal Program Administrator's Review within 15 business days of the date the agency receives the request for a Fair hearing.
3. The CFSA Program Administrator shall send written notice of the informal Program Administrator's Review to the parent's last known address and the parent's legal representative, if there is one, at least 10 business days prior to the informal Program Administrator's Review date.
4. The CFSA Program Administrator shall make a decision within 3 business days after the informal Program Administrator's Review and send a written notice of the decision to the individual and their legal representative, if any. If they do not agree with the decision made as a result of the informal Program Administrator's Review, they may proceed with their request for a Fair Hearing.

### **The Fair Hearing**

1. Individuals who request a Fair Hearing will be given notice of a date for the hearing within ten (10) days of their request for a Fair hearing and the Fair hearing will be held within 45 days of the request.
2. During the Fair Hearing, the client will have a chance to state their position regarding the decision made by CFSA to a fair hearing examiner. The client will have an opportunity to present witnesses and evidence on their behalf to a fair hearing examiner. The client does not have a right to an attorney, although may obtain one or have someone be their representative.
3. The CFSA representative who made the decision that is being appealed will also state CFSA's position and reasons for the decision. CFSA will have an opportunity to present witnesses and evidence on CFSA's behalf to a fair hearing examiner. CFSA may be represented by an attorney.
4. The Fair Hearing Examiner will then issue a decision regarding the disputed decision and send the notice of the decision to all parties in writing.
5. If the Fair Hearing Examiner supports the decision of CFSA regarding services, the parent may file an exception within ten (10) calendar days of receipt of the Fair Hearing decision.
6. Further, if parents do not agree with the Hearing Examiner's decision, they also have the right to ask the DC Court of Appeals to review the decision.